

**BEFORE THE LAND USE HEARINGS EXAMINER  
CLARK COUNTY, WASHINGTON**

<b>REGARDING THE APPLICATION FOR A</b>	<b>)</b>	<b>FINAL ORDER</b>
<b>CONDITIONAL USE, SITE PLAN AND SHORT PLAT</b>	<b>)</b>	
<b>APPROVAL TO DEVELOP THE PARCEL INTO A MIXED</b>	<b>)</b>	<b>MOUNTAIN VIEW</b>
<b>USE SITE INCLUDING A RESIDENTIAL CARE FACILITY,</b>	<b>)</b>	<b>CENTER</b>
<b>RETAIL BUILDING, AND CONVENIENCE STORE WITH 6</b>	<b>)</b>	<b>CUP2003-00001;</b>
<b>FUEL ISLANDS IN THE MX ZONING DISTRICT IN THE</b>	<b>)</b>	<b>PSR2003-00004;</b>
<b>UNINCORPORATED CLARK COUNTY, WA.</b>	<b>)</b>	<b>PLD2003-00002 &amp;</b>
		<b>SEP2003-00002</b>

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***APPROVED with Conditions***

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**INTRODUCTION**

The proposal requesting a conditional use, site plan and short plan approval to develop the parcel into a mixed use site containing a residential care facility, retail building and a convenience store with 6 fuel islands is located at the southeast corner of NE 162nd Avenue and NE 23rd Street. The project site is a portion of the "Stein Estates" development which received rezone approval from ML (Light Industrial) to MX (Mixed Use) under development proposal REZ95-004. The rezone limited the commercial uses to those permitted and conditional in the C2 (Neighborhood Commercial) zoning district. In 2000, the applicant received approval of a post decision review (PST2000-00016) to allow uses permitted and conditional in the C3 (Community Commercial) zone but restricting certain C3 uses. This post decision review required the applicant to have a concomitant rezone agreement recorded listing the proscribed uses. The rezone also contained a "conceptual" plan, which could be used to help meet the mixed use standards (See Exhibit 43). Several other phases within Stein Estates have already received approval and have, or are being, developed accordingly.

**Location:** Southeast corner of NE 23rd Street and NE 162nd Avenue; Parcel Number(s): Tax Lot 1 (164270-002) located in the Southeast ¼ of Section 24, Township 2 North, Range 2 East of Willamette Meridian; Area: 2.44-acres

**Applicant/Owner:** Wil Aho  
5512 NE 109th Court, Suite 101  
Vancouver, WA 98662

**Comp Plan:** MU (Mixed Use)

**Zoning:** MX (Mixed Use)

**Applicable Laws:** Clark County Code Chapters: 12.05A (Transportation), 12.41 (Concurrency), 13.29 (Storm Water Drainage and Erosion Control), 15.12 (Fire Code), 17 (Land Division), 18.65 (Impact Fees), 18.320 (Mixed Use District), 18.402A (Site Plan Review), 18.404 (Conditional Uses), 18.406 (Provisions Applying to Special Uses); 18.600 (Procedures), 20.50 (SEPA) and RCW 58.17 (State Platting Laws).

**Neighborhood:** Evergreen East

### **HEARING AND RECORD**

The Public Hearing on this matter was held on October 9, 2003 and the record was closed at the conclusion of the hearing. A record of all testimony received into the record is included herein as Exhibit A (Parties of Record), Exhibit B (Taped Proceedings), and Exhibit C. These exhibits are filed with the County Development Review Services.

As explained at the hearing the Examiner has conducted a site visit prior to the Hearing. The following public comments were received prior to the hearing:

- Chuck & Cheryl Paxton, letter dated April 18, 2003 (Exhibit 26): The Paxton's are opposed to the development due to traffic and they believe a traffic signal should be installed at the intersection of NE 162nd Avenue and NE 23rd Street (Transportation Concurrency (City of Vancouver), Finding 1).
- Reverend John Hubbard, on behalf of the Presbytery of the Cascade, letter dated April 28, 2003 (Exhibit 27): The Presbytery of the Cascade owns the parcel immediately south of the proposed development. They have comments and questions relating to driveway spacing, adequacy of fire hydrants, adequacy of access for fire apparatus and the proximity of petroleum storage (See Fire Protection Findings).
- Cimarron Homeowners Association, letter dated May 20, 2003: The Cimarron Homeowners Association has concerns pertaining to traffic and feel a traffic signal should be installed at the intersection of NE 162nd Avenue and NE 23rd Street (See Transportation Concurrency (City of Vancouver), Finding 1). The Association also has concerns regarding the use of neon signs, adequate screening of the proposed development and lighting (See Land Use Finding 1, 8 and 9).

At the hearing Mitch Kneipp the County's lead planner on this application testified that the applicant, Will Aho, is requesting conditional use, site plan and short plat approval to develop Mountain View Center into a mixed-use site. Proposed uses include a residential care facility, retail building and convenience store with six fuel islands. The short plat will consist of three lots. The 2.44-acre property is zoned MX (mixed use).

Mr. Kneipp went through the staff report on this project, noting that public notice was originally mailed out in March 2003, with final notice sent out in August 2003. The site was

posted on September 24. There is an undeveloped industrial property to the south of the site.

Mr. Kneipp then went through the major issues identified in the staff report: the need for a concomitant rezone agreement, the need for a conditional use permit, the special use requirements for the residential care facility, the required mix of uses, floor area ratio, building orientation, pedestrian circulation, building facades, perimeter landscaping, lighting, parking, joint access, vehicle queuing for the fuel pumps, square footage requirements for the solid waste storage areas, required parking for uses and the proposed short plat and state platting standards.

The bottom line, said Mr. Kneipp, is that County staff recommends approval of this application with the understanding that the conditions of approval laid out in the staff report are met.

Randy Printz, representing the applicant, briefly addressed the conditions in the staff report, saying that they have all either been met or will be met. The only significant issue we have is the not significantly detrimental to the neighborhood criteria, he said; the facility will provide a nice buffer between the C-3 uses and one of the busiest arterials in the county, he said – in other words, our belief is that the development will provide a good transition. He noted that the purpose of MX zoning is to create a dense urban environment, including dense commercial and residential development. The applicant indicated acceptance of the denser landscape buffer required by County staff, and also indicated an agreement with County staff on the building orientation.

The Examiner indicated some difficulty with locating a residential home for the elderly right next to a 24-hour gas station, or *vica versa*. He inquired as to the nature of the buffer between the two facilities? Mr. Printz replied that right or wrong, the County has strongly encouraged mixed use development. That requires dense, close-together uses that are different. The typical standards include pedestrian integration, easy access, and transportation integration. By the nature of mixed use, you have uses that historically have been separated but are now placed together. If it is a 24-hour station, the lighting will be shielded, and there will be a number of hours when use is very light. There will be no audible signal to attract the attendant's attention, Mr. Printz said. There is landscaping between the two facilities, and all along the front of the building, added Mr. Kneipp; Mr. Printz noted that there is a landscape plan in the record and that effort will be made to provide high vegetation to improve the shielding of the residents. The other aspect is that residents of the care facility will be able to easily access the convenience store.

Mr., Printz indicated that there will be enough parking for everyone – employees and visitors. This will be a residential care rather than assisted living. The Examiner indicated that enhanced landscaping between the convenience store and the residential care facility should addresses his primary concern about the impacts of 24-hour gas station located within an earshot of a residential facility now intended for the elderly.

Mr. Printz also touched on a few minor transportation-related issues, noting that 162<sup>nd</sup> is the boundary between the City of Vancouver and Clark County. There are two conditions of

approval related to transportation; the first is to construct a signal on 23<sup>rd</sup>. We agree with this condition, he said; however, we do have a concern about the fact that not only the signal but all related features must be completed prior to final plat approval. He indicated that the record did not support the need for dedicated turn lanes, although later the objection was reduced to whether the record justified a right turn (deceleration) lane. In connection with this concern, Mr. Printz raised issues related to Conditions D-3<sup>1</sup>, D-6, D-7, D-8 and E-1 because they left open-ended whether or not the applicant would have to construct right hand turn lanes, in absence of engineering finding that they were needed. On the proposed conditions D-2 and D-5 Mr. Printz expressed concern with the applicant having to pay both the county and the city concurrency modeling fees for the same corridor.

He noted that, with respect to the Examiner's concern about the proximity of the convenience store and the residential care facility, the standard is "significantly detrimental to the neighborhood." The Examiner, addressing the portion of the standard relating to "health, safety and general welfare of persons residing . . . in the neighborhood" indicated that, if additional trees were planted at the north end of the site between the care facility and the convenience store, that should take care of his concern about mitigating the impacts of having a 24/7 gas station so close to this vulnerable residential population. We'll develop some sort of additional screening for that area, Printz replied. We'll leave that up to the final site plan approval, with the understanding that you will put in maximum feasible screening, said the Examiner, including trees on the westernmost parking area separator between the pumping area/convenience store and the residential care parking area.

For the Staff response, Mr. Kneipp touched on the parking issue raised by the Examiner, noting that there is a condition in the staff report related to this issue. Also, he said, with respect to the screening/buffer issue, staff felt the additional 25 trees in front of the building was an adequate buffer, and recommended as a condition of approval that this screening be extended around the corner of the building. We were thinking more about the current residents of the neighborhood than we were about future residents, he said, but I agree with the Examiner's point about further screening along those end parking spaces. It sounds as though the applicant is willing to abide by that condition as well, Kneipp said.

One other issue relating to concurrency, said Kneipp – the County concurrency office has performed some modeling review, and I was relying on their report. That's the fee that was billed to this project, so I assume that's where that modeling fee is coming from. If the Examiner or applicant is concerned, he said, I could suggest that we leave the record open while we investigate the need for that modeling fee.

Ahmad Qayoumi, Vancouver's concurrency manger explained the rationale behind the concurrency requirements contained in the staff report. With respect to the intersection of 23<sup>rd</sup>

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<sup>1</sup> For example proposed D-3 requires that "The applicant shall complete construction of a traffic signal and all related features at the intersection of NE 162nd Avenue/NE 23rd Street prior to the issuance of any final plat, or as modified by the Director of Public Works. (See Transportation Concurrency (City of Vancouver) Findings 1 and 2)." Those related features would include turn lanes.

and 162<sup>nd</sup>, the auxiliary lanes are needed, he said – if you look at the geometry of the intersection, an exclusive right-turn lane will be definitely be needed given the high average speed through that intersection.

At this point, the Examiner requested public testimony on this development. None was offered. He then asked for applicant rebuttal. Mr. Printz indicated that we can either defer the decision on the turn lanes until final review, or... he said if the Examiner wants to impose a condition that the applicant and the city shall agree on the intersection design, and if we can't agree, we come back, that's fine. My only problem with the right-turn lane is that there is nothing in the record about that requirement, he said; the accident record for this intersection is well below the county average. The Examiner indicated that he could review the traffic study and make a determination, or require that the intersection design be worked out during final engineering review. We're fine with the signal, said Mr. Printz – it's the turn lane we have a problem with. Mr. Kneipp indicated that the traffic lanes are at the discretion of the city; we do have some concerns about how the right turn lane issue might come back, to us.

The Examiner indicated that the application for Mountain View Center will be approved and that he will look for some additional language about the additional buffering, and will also review the traffic study to see whether a right-turn lane is required. There will be two sets of modeling fees, at least for the present time, because the applicant has indicated that he does not wish to leave the record open solely to resolve that issue.

## **FINDINGS**

The Hearing Examiner adopts as his own and incorporates by reference the findings and conclusions contained in the September 24, 2003 Staff Report and Recommendation (Exhibit # 44) as corrected by the October 9, 2003 memorandum from Mitch Kneipp (Exhibit 48), except to the extent expressly modified or supplemented herein. Only the issues and the approval criteria raised in the course of the application, at the hearing or before the close of the record, are discussed in this section. Any standard that might be deemed to be an applicable approval criteria but which was not raised by staff, the applicant or a party to the proceeding has been waived as a contested issue, and no argument with regard to any such issue or criterion can be raised in any subsequent appeal. Criteria not discussed specifically in these findings below are deemed to be met. The following findings support this decision and are related to the issues that were raised during these proceedings:

### **LAND USE:**

#### **Finding 1 – Concomitant Rezone Agreement**

The post decision review (PST2000-00016) required a concomitant rezone to be submitted prior to the submittal of a development proposal for the site. Prior to the hearing this required agreement was submitted. (Exhibit 49) Prior to the issuance of the conditional use permit this agreement must be recorded and a copy provided to the county.

#### **Finding 2 – Conditional Use Permit**

The required concomitant rezone agreement allows for those uses which are permitted and conditional in the C-3 (Community Commercial) district except for those proscribed in the

agreement. The proposed uses would not be proscribed by the concomitant rezone agreement. A residential care facility and service station may be permitted with the approval of a conditional use permit in the C3 zone in accordance with CCC 18.313.020(E)(3) and 18.313.020(K)(9) respectfully. Therefore, these uses may be permitted in the MX zone with the approval of a conditional use permit.

Pursuant to CCC 18.404.060(A), the establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be significantly detrimental to the health, safety or general welfare of **persons residing** or working in the neighborhood of such proposed use or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the county.

Locating of the residential care facility along the eastern portion of the site provides an acceptable transition from the more extensive commercial uses to the west and the existing residential uses to the north and east. However, given the height of the facility more screening is warranted. The applicants are providing trees 25' on center in front of the building and continuing this screening along NE 23rd Street and NE 162nd Way will further continuity while at the same time provide a more effective buffer for the residential development to the north and east. A condition of approval requiring the tree plantings to be 25 feet, or closer, on center surrounding the retirement center is recommended (See Condition B-1).

Locating of the convenience store along the northern portion of the site does create a buffer between the residential development to the north and the fuel islands to the south. However, as with the residential care facility, a greater concentration of trees would serve to further buffer the use as well as soften the exterior of the convenience store. A condition of approval requiring the tree plantings to be 25', or closer, on center surrounding the convenience store is required.

Because the proposed fuel center may operate 24-hours/7-days a week and the developer has selected a mixed use combination which will put a residential care facility intended primarily for the elderly between the fuel center/convenience store and single family housing to the east, additional mitigation through planting is necessary to further separate the convenience store and fuel center from the residential care facility. On the preliminary site plan (Exhibit 34) additional trees would be placed on the dividing strip north of the "green space". This requirement is necessary for the general welfare of the new residents who will be in need of care at the proposed care facility. On a related issue see the discussion on the orientation of the fueling stations and queuing away from the residential care facility as shown in Exhibit 34. This proposed north-south orientation of the fueling is necessary to minimize the impacts of the fueling operations on the residential facility (see Finding 13).

The residences across NE 162nd Avenue are screened from the development site by a tall masonry wall and, in addition to the required on-site landscaping; there is requirement for right-of-way plantings along NE 162nd Avenue (See Condition B-2).

With the additional conditions noted above, the proposed plan adequately protects the best interests of the neighboring residential development and it will not be significantly detrimental



to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the county.

**Finding 3 – Special Use Requirements for Residential Care Facility**

CCC 18.406.020(T) requires residential care facilities and homes, where permitted as a conditional use, be subject to the following:

1. *Prior to approval, the approving authority shall find that:*
  - a. *The applicant has received all necessary certificates and approval from state and federal agencies;*

The applicant states in their narrative, “The actual certification program requires that the construction of the facility be complete. Prior to issuing a certificate, state agencies need to ensure that all construction requirements have been completed.” The applicant asks if this requirement can be deferred until occupancy of the facility. This is a reasonable request and a condition of approval to require evidence that all necessary state and federal certificates have been obtained prior to occupancy (See Condition D-1).

- b. *Construction or remodeling of structures necessary to accommodate the proposed use is compatible with the surrounding neighborhood. No sign indicating its use shall be permitted;*

Based on the elevations provided, and the noted construction type (wood), the residential care facility will be compatible with the surrounding neighborhood. A condition requiring review of the building plans to ensure construction type and compatibility is recommended (See Condition C-1).

The applicants are requesting that the prohibition against signs be waived to allow for a monument sign. The applicant argues that the sign prohibition was to prevent residential care “homes” and not facilities from having signage which would not be compatible in a residential neighborhood. However, given the clear code prohibition against signs the request to allow a sign is not approved and a condition proscribing one is approved (See Condition B-3).

- c. *The use of the subject property as a residential care facility shall not result in a concentration of residential care facilities that would result in interference with the enjoyment of neighboring property, or the residential character of the neighborhood;*

There are no other residential care facilities in the vicinity therefore this criterion does not apply. No condition of approval is warranted.

- d. *Residential care facilities or residential care homes housing justice offenders and/or residents subject to partial or full confinement shall not be located within three hundred (300) feet from existing schools or licensed commercial day care centers, as measured from property line to property line at the time of*

*siting of the residential care facility or home;*

The applicants note that no justice offenders and/or residents subject to partial or full confinement shall be housed within the facility, therefore this criterion does not apply. The facility is intended for individuals over a certain age and will be required to be limited to serve this specific class of individuals (See addressing of next criterion).

CCC 18.406.020(T) continues to require the following:

2. *Upon approval, the approving authority shall:*
  - a. *Limit the transferability of the conditional use permit either by providing that any transfer of ownership or management will require a new conditional use permit, or by prescribing specific criteria for such transfer to be applied by the planning director;*
  - b. *Limit service to a specific number and class or classes of individuals. Any increase in the specific number or any change in the specific class or classes of individuals shall require a new conditional use permit;*
  - c. *Restrict the number of vehicles permanently located at the facility or operated on a daily basis in connection with the facility;*
  - d. *Require additional review of any subsequent remodeling. The planning director shall determine the need for review by the approving authority;*
  - e. *Include such other conditions or terms as may be deemed appropriate and in the public interest to prevent interference with the use and enjoyment of public or private neighborhood property;*
  - f. *Review compliance with the conditional use permit conditions of approval through submittal for planning director review, to be conducted at one (1) year intervals.*

A condition of approval requiring the applicant to submit information showing compliance with this criterion prior to final site plan for the residential care facility is required. Staff is currently in the process of proposing changes to this section of code. Therefore, if, prior to final site plan, these requirements are modified or removed, the applicant will be relieved of this requirement should the requirements be repealed (See Condition B-4).

#### **Finding 4 – Required Mix of Uses**

Clark County Code section 18.320.060 requires a mix of uses in the MX zoning district. This mix of uses requires a 30% minimum of both residential and commercial, and up to a maximum of 70% of each use. The mixed use properties within the Stein Estates Development total approximately 14.46-acres. Of this acreage the residential portion consisting of the Stein Row Home development (recorded in May, 2000; Book 310, Page 800) and the Mountain View Row Homes (recorded in September, 2001; Book 310, Page 929)



consist of 4.06-acres and 2.26-acres respectfully. This amounts to approximately 44% of the mixed use property used for residential and therefore leaves approximately 56% of the mixed use property for commercial use. The required mix of uses is met and no condition of approval is warranted.

**Finding 5 – Floor Area Ratio (FAR)<sup>2</sup>**

For commercial developments in the MX zoning district, CCC 18.320.070 requires a minimum FAR of .5:1, or a total of .50 square feet gross area per one (1) square foot of site area, and a maximum FAR of 3:1, or three (3) square feet gross floor area per one (1) square foot of site area. The estimated commercial lot area within the Stein Estates Development totals approximately 6.18-acres (See Exhibit 47). Based on this figure the required minimum gross area of buildings would be approximately 134,600 sq ft (6.18-acres x 43,560 = 269,200 x .5 = 134,600) and the allowed maximum gross area of buildings would be approximately 807,602 (6.18-acres x 43,560 = 269,200 x 3 = 807,602).

With the development of this site the applicant is proposing 92,770 sq ft of buildings. This is below the required minimum FAR of 134,600 sq ft; however, the remaining portion of the MX district within the Stein Estates Development (Parcel 164364-480), is yet to be developed. This remaining parcel consists of 5.74-acres gross, with an estimated future right-of-way of approximately 1.75-acres, leaving approximately 3.99-acres of lot area. Based on this figure, this lot would be required to have a minimum of approximately 41,830 sq ft of building area (134,600 – 92,770 = 41,830) and no more than approximately 714,832 sq ft of building area (807,602 – 92,770 = 714,832). This minimum FAR can be met and a covenant shall be required on parcel 164364-480 in order to ensure the minimum and maximum FAR requirements are met (See Conditions A-13 and B-25).

**Finding 6 – Building Orientation**

CCC 18.320.070(K) states, “The building entrance shall be oriented to the major street on which the building has frontage, a street corner, plaza, park, or other buildings on the site, but not to interior blocks or parking lots. The building may have other entrances as long as direct pedestrian access is provided to all entrances.”

As explained in Land Use Finding 2, the current configuration of buildings provides a high level of buffering and separation for the surrounding uses. Reconfiguring the proposed buildings would only serve to decrease the level of buffering, thereby having an impact on the surrounding residents. In addition, if the main entrance was oriented towards NE 162nd Way this would detract from, and be detrimental to, the neighboring townhomes. Therefore, two modifications are required that will help to satisfy this criterion while still providing the buffering to the surrounding properties.

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<sup>2</sup> **18.104.318 Floor area ratio.** “Floor area ratio (FAR)” shall mean the gross floor area of all buildings on a lot divided by the lot area. For example, a FAR of two to one (2:1) means two (2) square feet of floor area for every one (1) square foot of site area.

**18.104.445 Lot area.** “Lot area” shall mean the computed area contained within the lot lines; said area to be exclusive of street or alley rights-of-way.

First, in order to comply with this requirement the proposed retail building shall provide an entrance along the west portion of the building adjacent to NE 162nd Avenue (See Condition B-5).

Second, the applicant has provided a “green space” at the main entrance to the residential care facility. However, there are no proposed landscape improvements within this green space. With improvements to this green space, and some hardscape improvements to the circular drive, this area would be considered a “plaza” and the building orientation would comply with this requirement (See Condition B-6).

#### **Finding 7 – Pedestrian Circulation**

For pedestrian circulation routes that cross driveways, parking areas and loading areas CCC 18.320.070(L)(4) requires these areas to be, “...clearly identifiable, through the use of elevation changes, speed bumps, a different paving material, or other similar method approved by the reviewing authority. Striping may be permitted only in conjunction with at least one (1) of the preceding methods.” The applicant has appropriately identified these areas on the site plan by the use of striping. The final site plan will need to be revised to show what method, in addition to striping, will be used to clearly identify these areas (See Condition B-7).

#### **Finding 8 – Building Façades**

CCC 18.320.070(N)(1) states, “Blank walls are not permitted on any street frontage, including walls facing controlled access highways and freeways.” CCC 18.320.070(N)(4) further states, “At least seventy-five percent (75%) of the width and fifty percent (50%) of the ground level wall area (total width by nine (9) feet above grade) of any new or reconstructed building facing a public street or pedestrian way shall be devoted to interest-creating features such as pedestrian entrances, reliefs, murals, landscaping, transparent show or display windows, or windows affording views into retail, office or lobby spaces.” The applicant’s building elevations do not show compliance with these requirements. Prior to final site plan, building elevations showing compliance with these building façade requirements shall be required (See Condition B-8).

#### **Finding 9 – Perimeter Landscaping**

CCC 18.320.070(E)(1)(a) states that all mixed-use developments shall meet the landscaping requirements set forth in Chapter 18.402A, Site Plan Review. However, the MX zoning designation is not listed in the landscape matrix known as Table 18.402A-1. The applicant has provided perimeter landscaping consisting of a 10’ buffer landscaped to an L2 standard. This standard applied for commercial developments adjacent to single-family zoning that are separated by a street. This standard is appropriate except as modified by the conditional use permit findings above. No further condition of approval is warranted.

#### **Finding 10 – Lighting**

CCC 18.402A.060(A)(7) requires light fixtures in parking or loading areas to be consistent with RCW 47.36.180 on public roadways and not cast significant light or glare off-site onto adjacent properties. The applicant provided a lighting plan (Exhibit 11, Tab 12) which shows compliance with this requirement. No condition of approval is warranted.

**Finding 11 – Parking**

The applicant's narrative states that 17 parking spaces are required for the residential care facility, however, no information was provided stating the number of residents or their age, which is used to determine the required number of parking stalls. Prior to final site plan this information will need to be provided as well as the required number of parking stalls (See Condition B-9).

**Finding 12 – Joint Access**

The applicants proposed site plan contains a note stating, "Prior to final plat, CC&R's containing mutual easements will be created for all lots providing pedestrian and vehicular access over all parking areas, internal (sic) accesses, and sidewalks to each of the lots." However, CCC 18.402A.070(B)(2) requires these cross-easement agreements prior to the issuance of building permits. If the applicant chooses to provide this information prior to final plat that is acceptable, however, a condition of approval requiring it prior to issuance of building permits is warranted (See Condition C-2).

**Finding 13 – Vehicle Queuing for Fuel Pumps**

CCC 18.402A.070(D) requires three (3) eighteen (18) feet long and eight (8) feet wide queuing spaces per pump. In addition, the vehicle queuing space shall not be used for backing and maneuvering space for parking or other purposes. The site plan as proposed is not meeting this requirement; however, exhibit 34 shows queuing areas on the south side of the pumps. The north-south orientation of the fuel pumps keeps the queued cars away from the residential care facility and is necessary for the conditional use requirements therefore, the final site plan shall be revised to comply with the vehicle queuing requirements (See Condition B-10).

**Finding 14 – Square Footage Requirements for Solid Waste Storage Areas**

CCC 18.402A.080 requires 10 sq ft of solid waste storage plus an additional 10 sq ft per 1,000 sq ft of gross floor area for retail and 4 sq ft per 1,000 sq ft gross floor area for institutional and other uses. Based on these requirements 224 sq ft would be required for the retail store, 22 sq ft for the convenience store and 282 sq ft for the residential care facility for a required total of 528 sq ft. According to the proposed site plan a total of 360 sq ft has been provided with a deficiency of 168 sq ft. The final site plan will need to be revised to show the required amount of solid waste storage (See Condition B-11).

**Finding 15 – Required Parking for Uses and the Proposed Short Plat**

The proposed lot layout incorporates only 11 parking stalls for the proposed residential care facility. Although the applicant is proposing cross-circulation easements, the proposed lot should include the required number of parking spaces for the intended use. This could be accomplished by moving the proposed lot line across the parking lot to incorporate the 10 parking stalls across from the proposed 11 stalls (See Condition A-1).

**Finding 16 – Lot Requirements in the MX zone**

The following are lot requirements for the MX zone:

Minimum/Maximum Lot Area = 2,500 sq ft/None

Minimum/Maximum Lot Width        =        20 ft/None  
Minimum/Maximum Lot Depth        =        90 ft/None

All three of the proposed lots are in compliance with these requirements. No condition of approval is warranted.

**Finding 17 – State Platting Standards (RCW 58.17)**

With conditions of approval, the proposed land division will make appropriate provisions for the public health, safety, and general welfare. Extension and connection of proposed residences to public sewer and water, as well as treatment of any future increase of stormwater runoff, will be provided, to protect groundwater supply and integrity. Impact Fees will also be required to contribute a proportionate share toward the costs of school, park and transportation provisions, maintenance and services.

**CRITICAL AQUIFER RECHARGE AREA (CARA)**

**Finding 1        Critical Aquifer Recharge Areas**

Based on the County GIS, this property is within the critical aquifer recharge area (CARA), Category II. In accordance with CCC13.70.320, the proposed activities within the fueling station site are allowed with a CARA permit. Prior to the final site plan approval, the applicant shall obtain a CARA permit in compliance with Section CCC 13.70 (See Condition B-12).

**TRANSPORTATION CONCURRENCY (CITY OF VANCOUVER):**

As part of the inter-local government agreement signed with the County on July 21, 1998, the City of Vancouver Concurrency staff has reviewed the proposed Mountain View Center. The project will impact the following Transportation Analysis Zone (TAZ) and the following City's Transportation Management Zone (TMZ).

<b>Corridor Name</b>	<b>Corridor Limit</b>	<b>Number of PM Peak Trips to City Concurrency Corridors</b>	<b>TAZ</b>
NE 162nd Avenue	SE 1st St. to Fourth Plain Blvd	51	#300
SE 164th Avenue	SR-14 to SE 1st Street	25	
192nd Avenue	SR-14 to NE 18th Street	0	
NE 18th Street	NE 112th Ave to NE 138th Ave	2	
NE 18th Street	NE 138th Ave to NE 162nd Ave	27	
NE 28th Street	NE 138th Ave to NE 162nd Ave	9	

The following paragraphs documents four transportation issues for the proposed development.

**Concurrency**

The applicant submitted a traffic study for this proposal in compliance with the inter-local agreement and the City's VMC 11.95 and VMC 11.90 requirements to meet the standards

established in the inter-local agreement. VMC 11.95 and VMC 11.90 outline the requirements corridors and intersections of regional significance.

**Finding 1 – NE 162nd Avenue/NE 23rd Street intersection**

Based on the submitted revised traffic study (Exhibit 32), the only access to the proposed commercial development would be from NE 162nd Avenue/NE 23rd Street. According to the trip distribution, 211(105in/106out) - See Appendix A to exhibit 32 - almost all site generated PM peak trips would be utilizing the intersection. Under the current stop-sign conditions, the intersection has the level of service (LOS) of “F”; therefore, the intersection needs to be mitigated to provide capacity for the proposed development’s PM peak trips through installation of a traffic signal, and to improve the level of service from “F” to “B”. The applicant shall submit civil engineering plans to the City of Vancouver for review and approval, and complete traffic signal construction prior to the final plat or certificate of occupancy whichever comes first (See Condition E-1).

The applicant’s Traffic Engineer, Jeff Wise, PE with Hopper Dennis Jellison, PLLC, has submitted a traffic study dated April 16, 2003, and completed a warrant analysis for the traffic signal and the warrants for a traffic signal are met. Apparently the June 17, 2003 revisions based on changed access was not reviewed by the City; however, it is not in dispute that the needed mitigation for the intersection, the level of service will improve with installation of the traffic signal. The City staff has reviewed the submitted information and concurs with the findings (See Traffic Study).

**Conclusion:**

Based on the submitted traffic study the intersection of NE 162nd Avenue/NE 23rd Street does not have the capacity to accommodate the additional trips from the new development with its existing conditions. To meet the City’s VMC 11.90.020 and RCW 82.02.020 requirements, the applicant shall mitigate the impact to the intersection with installation of a traffic signal. The applicant shall complete the traffic signal construction prior to the Final Plat approval or certificate of occupancy whichever comes first (See Condition A-3 and D-3).

**Finding 2 – Right Turn Lane**

According to the originally submitted preliminary site plans the project proposed a right-in/right-out driveway accessing to NE 162nd Avenue at the south property line, however the plans have since been revised. According to the conditions and notes outlined in the short plat, no access is allowed to NE 162nd Avenue. Therefore, the access will not be permitted, which will result in all of the right turn movements to occur at the intersection of NE 162nd Avenue/NE 23rd Street.

NE 162nd Avenue is one of the City’s designated Concurrency Corridors and a regionally significant corridor. It is anticipated that the Transportation Management Zone (TMZ) traffic utilizing NE 162nd Avenue Corridor will dramatically increase as the area around NE 162nd Avenue continues to grow in the next 20 years.

The City maintains that at the time of the traffic signal review and analysis a right turn lane might be required to be incorporated in the civil engineering plans for the traffic signal (See

Staff proposed conditions E-1, A-3 and D-3). The applicant relying on his 6/18/03 Traffic Study asserts that northbound decel lane is not warranted for NE 162<sup>nd</sup> Avenue and NE 23<sup>rd</sup> Street (See page 24 of Exhibit 32). The Examiner notes that this conclusion is based on WSDOT “guidelines” - WSDOT Design Manual guidelines, Figure 910-12: For multilane, low speed highways (posted speed less than 45 mph), there is no traffic volume right turn lane or taper requirement.” (EX 32, page 22- Right turn analysis). The Examiner cannot come to definitive conclusion since the applicant and the City seem to have traded engineering conclusions without any visible analysis. For example the Examiner does not know, nor was presented, with any discussion of the legal import of the WSDOT “guidelines” on a City road. For that reason the Examiner will defer the decision on the dedicated turns to the final engineering. This would enable the City to review the most recent Traffic Study and allow the parties to review authority issues. Post decision review would be the proper venue to review any lingering disagreement.

**Finding 3 – Modeling Reimbursement**

The City will incur a modeling expense for evaluating the impact of the proposed development on the transportation corridors. This expense should be reimbursed to the County. The following are the operational model corridors impacted by the development and appropriate fees based on the submitted trip distribution. The fee is based on the \$30.00/PM peak entering the corridor.

- 136th Avenue Corridor Concurrency Model fee is \$180.00
- 162nd Avenue Corridor Concurrency Model fee is \$1,500.00
- 164th Avenue Corridor Concurrency Model fee is \$750.00 (See Condition A-2 and D-2)

**Finding 4 – Development Inspection for off-site improvements**

The City incurs additional inspection costs for mitigation required for off-site improvements. The applicant should be required to reimburse the City’s costs for the inspections for these off-site improvements (See Conditions A-4 and D-4)

**Conclusion:** Upon review of the traffic impacts and the mitigation volunteered by the applicant, the proposed development complies with the City Concurrency VMC 11.95 and traffic impact per VMC 11.90.

**TRANSPORTATION CONCURRENCY (CLARK COUNTY):**

**Concurrency**

In accordance with CCC 12.41 Transportation Concurrency, a traffic study shall be required for proposed developments to assess impacts upon designated transportation corridors and/or intersections of regional significance. The proposed development shall maintain the level of service (LOS) standards established in CCC 12.41.080 for corridors and intersections of regional significance.

**Finding 1 – Site Access**

LOS standards are not applicable to site accesses that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur at the site access. In this situation, the applicant’s traffic study proposes one full



access onto a county road, NE 23rd Street. This access appears to maintain acceptable LOS.

**Finding 2 – Operating LOS on Corridors**

The proposed development was subject to concurrency modeling. The modeling results indicate that the operating levels comply with travel speed and delay standards. The applicant should reimburse the County for costs incurred in running the concurrency model. (See condition D-5)

**Finding 3 - Adjacent Jurisdictions**

Although the subject site is located in Clark County, the development generates traffic that has an effect on adjacent jurisdictions. The County has notified the City of Vancouver development and forwarded a traffic study for review and comment. Their comments have been included above. This includes review of NE 162nd Avenue adjacent to the proposed site.

**Concurrency Compliance**

The proposed development complies with the Concurrency Ordinance CCC 12.41 subject to the mitigation situation described above.

**Safety**

Where applicable, a traffic study shall address the following safety issues:

- traffic signal warrant analysis,
- turn lane warrant analysis,
- accident analysis, and
- any other issues associated with highway safety.

Mitigation for off-site safety deficiencies may only be a condition of approval on development in accordance with CCC 12.05.230. This ordinance states that “nothing in this chapter shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Chapter 12.41 CCC or a significant traffic or safety hazard would be caused or materially aggravated by the proposed development: provided that the developer may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020.”

**Finding 4 – Turn Lane Warrants**

The turn movements at the driveway accesses were examined and found to not meet turn lane warrants; therefore, mitigation should not be required from the applicant.

**Finding 5 – Historical Accident Situation**

No intersections have an historical accident rate greater than 1.0 accidents per million entering vehicles (AMEV); therefore further analysis by the applicant is not justified.

**TRANSPORTATION (CITY OF VANCOUVER):**

The City of Vancouver is providing comments for the project frontage of NE 162nd Avenue.

**Finding 1 – NE 162nd Avenue Improvements**

A traffic signal is being required as part of this development at the intersection of NE 162nd

Avenue and NE 23rd Street (see City of Vancouver Concurrency comments). The signal and any auxiliary lanes at the intersection of NE 162nd Avenue and NE 23rd Street shall be installed prior to receiving occupancy. Any auxiliary lanes required as part of the final signal design at the intersection of NE 162nd Avenue and NE 23rd Street shall be in conformance with WSDOT, AASHTO, and City of Vancouver design standards. The applicant is responsible for any additional right-of-way dedication, pavement width, and frontage improvements associated with the intersection design at NE 162nd Avenue and NE 23rd Street.

The applicant is not proposing site access off of NE 162nd Avenue and the project frontage of NE 162nd Avenue was recently improved as part of a City of Vancouver capital improvement project. Therefore, no additional frontage improvements, or right-of-way dedication, are required along the project frontage of NE 162nd Avenue except as noted above for the signal and auxiliary lane improvements.

Due to the recent construction of NE 162nd Avenue, no trenching will be allowed within NE 162nd Avenue unless approved by the City of Vancouver. Per VMC 11.90.095, street cuts are not allowed within five years of any road reconstruction. If trenching is allowed, mitigation measures include the use of Control Density Fill (CDF) and a full-street overlay. Contact the City's Pavement Manager, Bill Whitcomb, at 360-696-8290 x8553 for further information if street cuts into NE 162nd Avenue are required.

Street signing and striping will be required per VMC 11.90.065. The applicant shall ensure that the street signing and striping requirements for the site meet City standards. The Applicant shall submit a signing and striping plan with the civil plans showing traffic control devices, including signs and pavement markings, prior to engineering plan approval. The plans are to be stamped and signed by an engineer with expertise in traffic engineering and licensed in the State of Washington. Street signing and striping shall be installed by the developer.

When work is to be done within public rights-of-way, an approved Traffic Control Plan is required prior to obtaining a right-of-way permit.

Street Cut Permits shall be required anytime street cut work is performed in the right of way. Street Cut Permits shall be obtained from Engineering Services at Development Review at 735 8873 x 8678.

The applicant shall incorporate street improvement, signing and striping, and signal improvement plans into the final civil engineering plans for any proposed changes to the project frontage of NE 162nd Avenue.

**Conclusion:**

Based on the application materials submitted, the applicant's proposal can meet City of Vancouver Standards as conditioned. (See Conditions E-2, A-5, A-6, B-13, B-14 and D-6 through D-10).

**TRANSPORTATION (CLARK COUNTY):**

**Finding 1      Circulation Plan**

NE 162nd Avenue abutting the development on the west, and NE 23rd Street, abutting the property on the north are the north-south and east-west cross-circulation roads in the immediate vicinity of the proposed development. The existing roadway system provides adequate cross-circulation in compliance with the provisions of Section CCC 12.05.340.

**Finding 2 – Roads (NE 162nd Avenue)**

NE 162nd Avenue is classified in the county Arterial Atlas as a 4-lane principal arterial road with bike lanes and center turn lane (Pr-4cb, Standard Drawing # 4). NE 162nd Avenue along the frontage of the proposed development is within the City of Vancouver's limits. The applicant shall coordinate with the City of Vancouver for the required right-of-way dedications, frontage improvements, and for fulfilling other obligations (See Condition B-15).

**Finding 3 – Roads (NE 23rd Street)**

NE 23rd Street abutting the development on the north is classified as a "Neighborhood Circulator" roadway. The minimum half-width frontage improvements along this roadway in accordance with CCC12.05A, Standard Drawing #13, shall be:

- A minimum width right-of-way of 27 feet
- A minimum width roadway of 18 feet
- Curb/gutter and minimum sidewalk width of 5 feet

**Finding 4 – Access**

The developments within each one of the proposed lots will be accessed from NE 23rd Street via a shared access driveway. Prior to the final plat approval, the applicant shall submit an access easement agreement and note on the plat identifying which lots shall be served by the proposed joint driveway (See Condition A-7).

**Finding 5 – Pedestrian/Bicycle Circulation**

Pedestrian circulation facilities in compliance with the Americans with Disabilities Act are required. The development plans show existing and proposed sidewalks along the frontages. The proposed pedestrian circulation shall comply with the provisions of Section CCC 12.05.070.

**Conclusions:**

Based upon the findings, development site characteristics, the proposed transportation plan, and the requirements of the County's transportation standards, staff concludes that the proposed preliminary development plan, subject to the conditions identified, is feasible.

**STORMWATER:**

**Finding 1 – Applicability**

This project consisting of a residential care facility, a retail building, and a convenience store with a fuel island is proposed within Lot 1 of the previously approved mixed-use development (Stein Estates, SUB 95-033-2422). The stormwater plan for the development received vesting under the previous Stormwater Control Ordinance (CCC 13.25) and Erosion Control

Ordinance (CCC 13.27), adopted January 26, 1994. These ordinances apply to development activities that result in 2,000 square feet or more of new impervious area within the urban area.

**Finding 2 – Stormwater Proposal**

The applicant proposes to convey the runoff from this development to the existing stormwater facilities for treatment and infiltration in compliance with the water quality and quantity control requirements of the Stormwater Ordinance, CCC13.25.

The existing stormwater facilities were designed, constructed, and approved with Stein Estates development in accordance with the previous Stormwater Control Ordinance (CCC 13.25) and Erosion Control Ordinance (CCC 13.27). In lieu of the preliminary stormwater report, the applicant has submitted a letter to certify that the design of the north stormwater facility accounted for approximately 3.40 acres (2.00 acres impervious and 1.4 acres pervious) of future development area for this commercial site. The letter indicates that of the 3.40 acres, only 1.61 acres will be used for the Mountain View Center commercial development (1.16 acres impervious and 0.45 acres pervious). The remaining 1.79 acres of area is allotted for future development.

Due to the possibility of oil and gas leaks from the fueling station site, infiltration of stormwater runoff may pose serious impacts to the groundwater. Therefore, in accordance with Section CCC 13.25.210(6)(b), the proposed fueling station shall be conditioned on all the criteria described in this section at the time of final site plan application (See Condition B-16).

**Finding 3 – Site Conditions and Stormwater Issues**

USDA, SCS mapping shows the site to be underlain primarily by Lauren (100% LgB) soils classified by AASHTO as A-1, A-2 soils. These soils are generally suitable for infiltration. The project is required to submit an amendment to the original Technical Infiltration Report (TIR) to show that the existing treatment and infiltration facilities have sufficient capacity to adequately treat and dispose the runoff from the impervious surfaces created by this phase of the development. If necessary, the existing stormwater facilities shall be modified to adequately receive, treat, and dispose stormwater runoff from this development in compliance with the provisions of the previous Stormwater Ordinance, CCC13.25 (See Condition B-17).

Prior to approval of the final site plan, the applicant shall submit an inspection report, stamped by a licensed engineer in the State of Washington, indicating that the quality and quantity control features of the existing stormwater facilities are functioning as designed (See Condition B-18).

In accordance with CCC Section 13.25.210(5)(a)(vi), the proposed fueling station development is required to install API or CSP-type oil/water separators to ensure that the potential leaks are prevented from contaminating the groundwater (See Condition B-19).

**Conclusion:**

Based upon the findings, development site characteristics, the proposed transportation plan, the proposed stormwater plan, and the requirements of the County's transportation standards and stormwater ordinance, staff concludes that the proposed preliminary development plan

subject to the conditions identified is feasible.

**FIRE PROTECTION:**

**Finding 1**

Fire flow in the amount of 1750 gallons per minute supplied for 2 hour duration is required for this application. Information from the water purveyor indicates that the required fire flow is not available at the site; 1,500 gpm is available. Fire flow is based on a 68,230 sq. ft. type V-N building with an approved fire sprinkler system installed (See Conditions A-8 and B-20).

**Finding 2**

Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process (See Condition C-3).

**Finding 3**

Fire hydrants are required for this application. Either the indicated number or the spacing of the fire hydrants is inadequate. The applicant shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 300 feet and such that no portion of the building exterior is in excess of 300 feet from a fire hydrant as measured along approved fire apparatus access roads (See Conditions A-9 and B-21).

**Finding 4**

Unless waived by the fire district chief fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection (See Conditions A-10 and B-22).

**Finding 5**

The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact Fire District 5 at 360-696-8166 to arrange for location approval (See Conditions A-11 and B-23).

**Finding 6**

Provide and maintain a six-foot clear space completely around every fire hydrant (See Conditions A-12 and B-24).

**Finding 7**

Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application adequately provide required fire apparatus access. No condition of approval is warranted.

**Finding 8**

Fire apparatus turnarounds are not required for this application. No condition of approval is warranted.

**Finding 9**

An automatic fire sprinkler is required at the time of construction for the residential care

facility and retail building noted in this application. Such systems require separate reviews, permits and approvals issued by the fire marshal's office (See Condition C-4).

**Finding 10**

Buildings provided with automatic fire sprinkler systems shall be provided with a minimum of two fire hydrants. One fire hydrant shall be within 100 feet of approved fire department connections to the sprinkler systems (See Condition C-5).

**Finding 11**

An approved fire alarm system is required at the time of construction for the residential care and general office buildings noted in this application. Such systems require separate reviews, permits and approvals issued by the fire marshal's office (See Condition C-6).

**Finding 12**

Other Requirements: Fire Department Connections (FDC) shall be remote a minimum distance equal to the height of the building (See Condition C-7).

**Finding 13**

Other Requirements: Fuel storage tanks and fuel dispensing stations require a separate permit from the Fire Marshal's Office (See Condition C-8).

**HEALTH DEPARTMENT:**

**Criteria:**

*CCC 13.40A (Water Supply), establishes that the provision of publicly managed water system to serve new developments in the urbanized areas (of the county) is necessary. WAC 173-160-415, 246-290 and RCW 58.17, provide state guidelines for potable water provision to support new development in the county.*

**Finding 1**

The Health Department found no evidence of an existing well on the site. If a well is discovered it will then be required to be legally decommissioned by a licensed well driller (WAC 173-160-381). Written confirmation with copies of receipt(s) of the decommissioning are required to be submitted to the Clark County Health Department prior to, and as a condition of, the Final Site Plan or Final Plat approval. The well driller must contact the Clark County Health Department at least 48 hours prior to the decommissioning of any well. The location of the decommissioned well must be shown on the Final Site Plan and Final Plat, and the development must connect to an approved water system (See Condition G-13).

**Finding 2**

The applicant submitted a utility review for water from the City of Vancouver, indicating that public water is available to serve this development. The applicant will need to effect and pay for improvements required by the City of Vancouver, in order to connect the new uses to public water (See Condition D-11).

**Criteria:**

*CCC 13.08A (Sewage Treatment), WAC 246-272, and RCW 58.17, enhance public health by*



*providing policies and guidelines regarding when connection to public sewer is required or prohibited. All new developments in the urban area are required to connect to public sewer unless a waiver is granted for small projects in accordance with the criteria in this section. The Southwest Washington Health District ensures that the system complies with the minimum standard established by the State.*

**Finding 3**

No evidence was observed of an existing On-Site Septic System (OSS) on the property; however, if a septic system is found during the site development, it is to be legally abandoned (WAC 246-272-18501). Written confirmation with copies of receipt(s) of legal OSS abandonment are required to be submitted prior to, and as a condition of, the Final Site Plan or Final Plat approval. Legal abandonment requires septic tank pumping by a Clark County Health Department approved pumper/inspector, breaking in the tank lid, and filling the cavity with compacted soil. The location of any abandoned tank must be shown on the Final Site Plan and Final Plat. The proposed development must connect to an approved sewer system (See Condition G-13).

**Finding 4**

The applicant submitted a utility review from the City of Vancouver, indicating that public sewer is available to serve the subject site. The applicant will need to effect and pay for improvements required by the City of Vancouver, in order to connect the new uses to public sewer (See Condition D-12).

**IMPACT FEES:**

**Finding 1**

The proposed convenience store, retail building and residential care facility will produce impacts on traffic, and will be subject to Traffic (TIF) impact fees. The site is within the Evergreen Transportation District. The total impact fee due at the time of issuance for each building permit is as follows:

<b>Building</b>	<b>Size</b>	<b>Use Calculated</b>	<b>Approx. TIF Amount</b>
Convenience Store	3,140 sq ft	Convenience Store w/12 fuel positions	\$227,800.84
Retail Building	21,400 sq ft	Shopping Center	\$167,439.36
Residential Care Facility	68,230 sq ft	Nursing Home	\$24,226.02
Totals:	92,770 sq ft	-----	\$419,466.22

If a building permit application is made more than three years following the date of preliminary site plan approval, the impact fees shall be recalculated according to the then current ordinance rate (See Condition C-9).

**SEPA DETERMINATION**

**Determination of Non-Significance (DNS).** Clark County, as lead agency for review of this

proposal, has determined that this proposal does not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(e). This decision was made after review of a completed environmental checklist and other information on file with the County.

## **DECISION**

Based upon the proposed plan (identified as Exhibit 34), and the findings and conclusions stated above, the Hearings Examiner APPROVES this request, subject to the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

### **Conditions of Approval**

- A. CONDITIONS THAT MUST BE MET PRIOR TO FINAL PLAT APPROVAL; OR IF IMPROVEMENTS ARE APPROVED BY THE COUNTY FOR BONDING, SUCH CONDITIONS SHALL BE MET PRIOR TO ISSUANCE OF BUILDING PERMITS:**
- A-1 Revise the final plat to ensure the required number of parking spaces for the proposed residential care facility can be provided for within the lot (See Land Use Finding 15).
  - A-2 The applicant shall reimburse the City for the cost of concurrency modeling incurred in determining the impact of the proposed development, in an amount not to exceed \$2,430.00. The reimbursement shall be made within 60 days of issuance of the Staff Report with evidence of payment presented to staff at Clark County Public Works (See Transportation Concurrency (City of Vancouver) Finding 3).
  - A-3 The applicant shall complete construction of a traffic signal and any required related features at the intersection of NE 162nd Avenue/NE 23rd Street prior to the issuance of any final plat, or as modified by the Director of Public Works. (See Transportation Concurrency (City of Vancouver) Findings 1 and 2)
  - A-4 The City incurs additional inspection costs for mitigation required for the improvements. The applicant should be required to reimburse the City's costs for the inspections for these off-site improvements (See Transportation Concurrency (City of Vancouver) Finding 4).
  - A-5 When work is to be done within public rights-of-way, an approved Traffic Control Plan is required prior to obtaining a right-of-way permit (See Transportation (City of Vancouver) Finding 1).
  - A-6 Street Cut Permits shall be required anytime street cut work is performed in the right of way. Street Cut Permits shall be obtained from Engineering Services at Development Review at 735 8873 x 8678 (See Transportation (City of Vancouver) Finding 1).

- A-7 The applicant shall submit an access easement agreement and place a note on the plat to indicate which lots shall be served by the proposed joint driveway (See Transportation (Clark County) Finding 4).
- A-8 Provide evidence that the required fire flow in the amount of 1750 gallons per minute supplied for 2 hour duration is available (See Fire Protection Finding 1).
- A-9 Provide fire hydrants such that the maximum spacing between hydrants does not exceed 300 feet and such that no portion of the building exterior is in excess of 300 feet from a fire hydrant as measured along approved fire apparatus access roads (See Fire Protection Finding 3).
- A-10 Unless waived by the fire district chief fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection (See Fire Protection Finding 4).
- A-11 The applicant shall contact Fire District 5 at (360) 696-8166 to arrange for fire hydrant location approval (See Fire Protection Finding 5).
- A-12 Provide and maintain a six-foot clear space completely around every fire hydrant (See Fire Protection Finding 6).
- A-13 Provide a copy of a recorded covenant for parcel 164364-480 which details the remaining required amount of building area that must be constructed (See Land Use Finding 5).
- B. CONDITIONS THAT MUST BE MET PRIOR TO FINAL SITE PLAN APPROVAL; OR IF IMPROVEMENTS ARE APPROVED BY THE COUNTY FOR BONDING, SUCH CONDITIONS SHALL BE MET PRIOR TO ISSUANCE OF OCCUPANCY PERMITS:**
- B-1 For the proposed retirement center, revise the final landscape plan to show the required tree plantings to be 25 feet, or closer, on center surrounding the retirement center along NE 23rd Street and NE 162nd Avenue and on strip separating the northwest front of the residential facility from the convenience store and the fueling islands (See Land Use Finding 2).
- B-2 For the proposed convenience store, revise the final landscape plan to show the required tree plantings to be 25 feet, or closer, on center surrounding the convenience store along NE 23rd Street (See Land Use Finding 2).
- B-3 For the proposed residential care facility, no sign indicating its use shall be permitted (See Land Use Finding 3).
- B-4 Provide documentation for approval, or showing compliance with, the following:
  - a. Limit the transferability of the conditional use permit either by providing that

any transfer of ownership or management will require a new conditional use permit, or by prescribing specific criteria for such transfer to be applied by the planning director;

- b. Limit service to a specific number and class or classes of individuals. Any increase in the specific number or any change in the specific class or classes of individuals shall require a new conditional use permit;
- c. Restrict the number of vehicles permanently located at the facility or operated on a daily basis in connection with the facility;
- d. Require additional review of any subsequent remodeling. The planning director shall determine the need for review by the approving authority;
- e. Include such other conditions or terms as may be deemed appropriate and in the public interest to prevent interference with the use and enjoyment of public or private neighborhood property;
- f. Review compliance with the conditional use permit conditions of approval through submittal for planning director review, to be conducted at one (1) year intervals.”

If prior to final site plan these requirements are modified or removed, the applicant will be relieved of this requirement should the requirements be repealed (See Land Use Finding 3).

- B-5 For the proposed retail building, revise the final site plan to show an entrance along the west portion of the building adjacent to NE 162nd Avenue (See Land Use Finding 6).
- B-6 For the proposed residential care facility, revise the final site plan and landscape plan to show landscape improvements to the identified “green space” and provide hardscape improvements to the circular drive -see also condition B-1 (See Land Use Finding 6).
- B-7 For all proposed uses, revise the final site plan to identify what method, in addition to striping, will be used to clearly identify the pedestrian circulation routes (See Land Use Finding 7).
- B-8 For all proposed uses, provide building elevations showing compliance with the building façade requirements identified in CCC 18.320.070(N)(1) (See Land Use Finding 8).
- B-9 For the proposed residential care facility, provide information pertaining to the number and age of residents of the residential care facility and based on this information ensure the required number of parking spaces are provided (See Land Use Finding 11).
- B-10 For the proposed convenience store and fuel station, revise the final site plan to show

- compliance with the vehicle queuing requirements identified in CCC 18.402A.070(D) while retaining north-south orientation for the fueling facility (See Land Use Finding 13).
- B-11 For all proposed uses, revise the final site plan to show the required amount of solid waste storage (528 sq ft) based on the size of the proposed buildings (See Land Use Finding 14).
- B-12 For the proposed convenience store and fuel station, obtain a CARA permit for the proposed fueling station in compliance with Section CCC 13.70 (See Critical Aquifer Recharge Area (CARA) Finding 1).
- B-13 For all proposed uses, when work is to be done within public rights-of-way, an approved Traffic Control Plan is required prior to obtaining a right-of-way permit (See Transportation (City of Vancouver) Finding 1).
- B-14 For all proposed uses, Street Cut Permits shall be required anytime street cut work is performed in the right of way. Street Cut Permits shall be obtained from Engineering Services at Development Review at 735 8873 x 8678 (See Transportation (City of Vancouver) Finding 1).
- B-15 For all proposed uses, the applicant shall submit a letter signed by the City of Vancouver development review staff indicating that all the obligations for dedications and improvements along the frontage on NE 162nd Avenue have been fulfilled and the requirements of the City of Vancouver are satisfied (See Transportation (Clark County) Finding 2).
- B-16 For the proposed convenience store and fuel station, to obtain approval for infiltration of runoff from the fueling station, the applicant shall be conditioned to comply with the criteria described in Section CCC 13.25.210(6)(b) (See Stormwater Finding 2).
- B-17 For all proposed uses, the applicant shall submit an amendment to the original TIR to show that the existing treatment and infiltration facilities have sufficient capacity to adequately treat and dispose the runoff from the impervious surfaces created by this phase of the development. If necessary, the existing stormwater facilities shall be modified to adequately receive, treat, and dispose stormwater runoff from this development in compliance with the provisions of the previous Stormwater Ordinance, CCC13.25 (See Stormwater Finding 3).
- B-18 For all proposed uses, prior to the final plan approval, the applicant shall submit an inspection report, stamped by a licensed engineer in the State of Washington, indicating that the quality and quantity control features of the existing stormwater facility are functioning properly (See Stormwater Finding 3).
- B-19 For the proposed convenience store and fueling station, the development is required to install API or CSP-type oil/water separators (See Stormwater Finding 3).

- B-20 For all proposed uses, provide evidence that the required fire flow in the amount of 1750 gallons per minute supplied for 2 hour duration is available (See Fire Protection Finding 1).
- B-21 For all proposed uses, provide fire hydrants such that the maximum spacing between hydrants does not exceed 300 feet and such that no portion of the building exterior is in excess of 300 feet from a fire hydrant as measured along approved fire apparatus access roads (See Fire Protection Finding 3).
- B-22 For all proposed uses, unless waived by the fire district chief fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection (See Fire Protection Finding 4).
- B-23 For all proposed uses, the applicant shall contact Fire District 5 at (360) 696-8166 to arrange for fire hydrant location approval (See Fire Protection Finding 5).
- B-24 For all proposed uses, provide and maintain a six-foot clear space completely around every fire hydrant (See Fire Protection Finding 6).
- B-25 For all proposed uses, provide a copy of a recorded covenant for parcel 164364-480 which details the remaining required amount of building area that must be constructed (See Land Use Finding 5).

**C. CONDITIONS THAT MUST BE MET PRIOR TO ISSUANCE OF BUILDING PERMITS**

- C-1 For the proposed retirement center, provide a copy of the building plans to the planning manager for review to ensure its design and construction type is compatible with the surrounding neighborhood and the residential care facility. If the planning manager determines the plans are not compatible they shall be redesigned based on the recommendation of the planning manager (See Land Use Finding 3).
- C-2 For all proposed uses, provide cross-easement agreements prior to the issuance of building permits (See Land Use Finding 12).
- C-3 Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process (See Fire Protection Finding 2).
- C-4 An automatic fire sprinkler is required at the time of construction for the residential care and retail buildings noted in this application. Such systems require separate reviews, permits and approvals issued by the fire marshal's office (See Fire Protection Finding 9).
- C-5 For the residential care facility and the retail building, automatic fire sprinkler systems shall be provided with a minimum of two fire hydrants. One fire hydrant shall be



within 100 feet of approved fire department connections to the sprinkler systems (See Fire Protection Finding 10).

- C-6 An approved fire alarm system is required at the time of construction for the residential care facility and retail buildings noted in this application. Such systems require separate reviews, permits and approvals issued by the fire marshal's office (See Fire Protection Finding 11).
- C-7 Fire Department Connections (FDC) shall be remote a minimum distance equal to the height of the building (See Fire Protection Finding 12).
- C-8 Fuel storage tanks and fuel dispensing stations require a separate permit from the Fire Marshal's Office (See Fire Protection Finding 13).
- C-9 Pay the appropriate traffic impact fee for each use based on the following table (See Impact Fees Finding 1):

<b>Building</b>	<b>Size</b>	<b>Use Calculated</b>	<b>Approx. TIF Amount</b>
Convenience Store	3,140 sq ft	Convenience Store w/12 fuel positions	\$227,800.84
Retail Building	21,400 sq ft	Shopping Center	\$167,439.36
Residential Care Facility	68,230 sq ft	Nursing Home	\$24,226.02
Totals:	92,770 sq ft	-----	\$419,466.22

If a building permit application is made more than three years following the date of preliminary site plan approval, the impact fees will be recalculated according to the then current ordinance rate.

**D. CONDITIONS THAT MUST BE MET PRIOR TO ISSUANCE OF OCCUPANCY PERMITS**

- D-1 For the proposed residential care facility, provide evidence that all necessary state and federal certificates have been obtained (See Land Use Finding 3).
- D-2 The applicant shall reimburse the City for the cost of concurrency modeling incurred in determining the impact of the proposed development, in an amount not to exceed \$2,430.00. The reimbursement shall be made within 60 days of issuance of the Staff Report with evidence of payment presented to staff at Clark County Public Works (See Transportation Concurrency (City of Vancouver) Finding 3).
- D-3 The applicant shall complete construction of a traffic signal and any related features at the intersection of NE 162nd Avenue/NE 23rd Street required under accepted engineering design principles prior to the issuance of any final plat, or as modified by the Director of Public Works. (See Transportation Concurrency (City of Vancouver)

Findings 1 and 2)

- D-4 The City incurs additional inspection costs for mitigation required for the improvements. The applicant should be required to reimburse the City's costs for the inspections for these off-site improvements (See Transportation Concurrency (City of Vancouver) Finding 4).
- D-5 The applicant shall reimburse the County for the cost of concurrency modeling incurred in determining the impact of the proposed development, in an amount not to exceed \$1,500. In relationship to condition of approval D-2, the County may not charge for the any duplicative modeling required and used by the City. The required reimbursement shall be made within 60 days of issuance of the Staff Report with evidence of payment presented to staff at Clark County Public Works (See Transportation Concurrency (Clark County) Finding 2).
- D-6 The signal and any required auxiliary lanes at the intersection of NE 162nd Avenue and NE 23rd Street shall be installed prior to receiving occupancy. Disagreements over whether any auxiliary lanes are required may be resolved through post decision review (See Transportation (City of Vancouver) Finding 1).
- D-7 Any auxiliary lanes required as part of the signal design at the intersection of NE 162nd Avenue and NE 23rd Street shall be in conformance with WSDOT, AASHTO, and City of Vancouver design standards (See Transportation (City of Vancouver) Finding 1).
- D-8 The applicant is responsible for any additional right-of-way dedication, pavement width, and frontage improvements associated with any required signal/auxiliary lane design at NE 162nd Avenue and NE 23rd Street (See Transportation (City of Vancouver) Finding 1).
- D-9 Per VMC 11.90.095, street cuts are not allowed within five years of any road reconstruction. If trenching is allowed, mitigation measures include the use of Control Density Fill (CDF) and a full-street overlay. Contact the City's Pavement Manager, Bill Whitcomb, at 360-735-8858 x8553 for further information if street cuts into NE 162nd Avenue are required (See Transportation (City of Vancouver) Finding 1).
- D-10 Street signing and striping will be required per VMC 11.90.065. The applicant shall ensure that the street signing and striping requirements for the site meet City standards. The Applicant shall submit a signing and striping plan with the civil plans showing traffic control devices, including signs and pavement markings, prior to engineering plan approval. The plans are to be stamped and signed by an engineer with expertise in traffic engineering and licensed in the State of Washington. Street signing and striping shall be installed by the developer (See Transportation (City of Vancouver) Finding 1).
- D-11 The applicant shall effect and pay for improvements required by the City of Vancouver in order to connect each new building to public water (See Health District Finding 2).

- D-12 The applicant shall effect and pay for all improvements required by the City of Vancouver in order to connect each new building to public sewer (See Health District Finding 4).

**E. CONDITIONS THAT MUST BE MET PRIOR TO CIVIL ENGINEERING PLAN APPROVAL:**

- E-1 The applicant shall submit the civil engineering plans for the traffic signal at the intersection of NE 162nd Avenue/NE 23rd Street to the City of Vancouver for review and approval. The civil engineering plans may need to include the minimum design needed for the right northbound to eastbound right turn lane at the intersection. (See Transportation Concurrency (City of Vancouver) Findings 1 and 2).
- E-2 The applicant shall incorporate street improvement, signing and striping, and signal improvement plans into the final civil engineering plans for any proposed changes to the project frontage of NE 162nd Avenue (See Transportation (City of Vancouver) Finding 1).

**F. NOTES REQUIRED ON FINAL PLAT**

The following notes shall be placed on the final plat:

**F-1 Archaeological:**

"If any cultural resources are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

**F-2 Mobile Homes:**

"Placement of Mobile Homes is prohibited."

**F-3 Utilities:**

"An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also a sidewalk easement as necessary to comply with ADA slope requirements upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."

**F-4 Critical Aquifer Recharge Areas:**

"The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."

**F-5 Erosion Control:**

"Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to

construction."

**F-6 Driveways:**

"No direct access is allowed onto the following streets: NE 162nd Avenue."

**F-7 Privately Owned Stormwater Facilities:**

"The following party(s) are responsible for long-term maintenance of the privately owned stormwater facilities: \_\_\_\_."

**G. STANDARD CONDITIONS**

This development proposal shall conform to all applicable sections of the Clark County Code. The following conditions shall also apply:

**Land Division:**

- G-1 Within 5 years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.
- G-2 Prior to recording the final plat, the applicant shall submit information (per CCC 17.301.100) verifying that the required land division landscape has been installed in accordance with the approve landscape plan(s).

**Site Plans:**

- G-3 Within 5 years of preliminary plan approval, a Fully Complete application for a building permit shall be submitted.
- G-4 Prior to issuance of an approved occupancy for site plan, the applicant shall submit information (per CCC 18402A.050H) verifying that the required site plan landscape has been installed in accordance with the approve landscape plan(s).

**Pre-Construction Conference:**

- G-5 Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.

**Erosion Control:**

- G-6 Prior to construction, the applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC13.27.
- G-7 Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- G-8 Erosion control facilities shall not be removed without County approval.

**Excavation and Grading:**

- G-9 Excavation/grading shall be performed in compliance with Appendix Chapter 33 of the

Uniform Building Code (UBC).

- G-10 Site excavation/grading shall be accomplished, and drainage facilities shall be provided, in order to ensure that building foundations and footing elevations can comply with CCC 14.04.252.

**Stormwater:**

- G-11 Prior to construction, the applicant shall submit and obtain County approval of a final stormwater plan designed in conformance to CCC13.25.

**Transportation:**

- G-12 Prior to construction, the applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 12.05.

**Health Department:**

- G-13 Applicant shall comply with the requirements of the Clark County Health Department (CCHD).
- G-14 For water and sewerage systems provided by a purveyor, the applicant may be required to provide evidence of an adequate water supply and/or an adequate sewerage collection and treatment system. Such evidence (normally in the form of a letter from the purveyor) shall be submitted to and approved by the Clark County Health Department (CCHD).

**Dated this \_\_\_\_\_ day of October, 2003**

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**J. Richard Forester**  
**Hearing Examiner**

**NOTE:** *Only the decision and the condition of approval are binding on the applicant as a result of this order. Other parts of the final order are explanatory, illustrative and/or descriptive. They may be requirements of local, state, or federal law, or requirements which reflect the intent of the applicant, the county staff, or the Examiner, but they are not binding on the applicant as a result of the final order unless included as a condition.*

An **appeal** of any aspect of the Hearing Examiner's decision, except the SEPA determination, may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The appeal shall be filed with the Board of County Commissioners, 1013 Franklin Street, Vancouver, Washington, 98668, within fourteen (14) calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the final land use decisions shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 18.600.100 (A) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied, on to prove the error; and,
4. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal also must explain why such evidence should be considered, based on the criteria in subsection 18.600.100 (D)(2).
5. A check in the amount of \$239 (made payable to the Clark County Board of County Commissioners).